

## MINUTES

### WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting in Commissioners Meeting Room,

Third Floor, Historic Court House,

Boonville, IN

Monday, October 12, 2015, 6:00 PM

**PLEDGE OF ALLEGIANCE** : A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, President; Jeff Valiant, Vice-President; Amanda Mosiman (arrived at 6:02 pm), Brad Overton, Richard Reid and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, staff.

**MEMBERS ABSENT:** Bill Byers.

Roll call was taken and a quorum declared present.

**MINUTES:** Upon a motion made by Richard Reid and seconded by Jeff Valiant, the Minutes of the last regular meeting held September 14, 2015, were approved as circulated.

The President explained the Rules of Procedure to the audience and stated that Mr. Reid needs to leave the meeting at 6:15 and explained they will need to move two petitions to the front of the Agenda because he can't vote for one of the items and Jeff Willis can't vote on another and in order to have a quorum for those two petitions they will need to put them on the front of the Agenda before Mr. Reid has to leave.

### **REZONING PETITIONS:**

**PC-R-15-16 – Petition of Brandon & Ashlee Gentry** to rezone 7.694 acres located on the E side of Maurer Rd. approximately 0' E of the intersection of Degonia Rd. & Maurer Rd., Pcl 4 P & N Barnett Minor, Skelton Twp. from "A" Agriculture to "R-1A" One Family Dwelling. *Complete legal on file. Advertised in the Standard October 1, 2015.*

The President turned the meeting over to the Vice-President and approached the podium.

The Vice-President called for a staff report.

Mrs. Rector stated they have all the return receipts from certified mail of notice to the adjacent property owners except for Sheila Bridges; however, they do have the white pay receipt showing it was mailed to the correct address within the 21 day requirement. She said the Comprehensive Plan has no projection for this area and the existing use is a single family home. She added this is a parcel

in a minor subdivision that was approved in 2005. Mrs. Rector then explained all surrounding property is zoned Agriculture with residences and the reason they have filed this rezoning is because they are attempting to sell their home and the people purchasing the property are having difficulty with lenders making loans on property zoned Agriculture. She said she believes it is a USDA loan. She said there is no flood plain on the property and it has an existing driveway off Maurer Road. She added that Brandon Gentry has given a recorded power of attorney to Guy Gentry to represent him at this meeting. She added the application is in order.

Guy Gentry said his son has to rezone the property in order to sell it because in order for the purchaser to get financing it has to be zoned residential. He said that is because there is a potential of them setting aside land which is another government program.

Ascertaining there were no questions from the Board and being no remonstrators present, the Vice-President called for a motion.

Richard Reid made a motion based on the evidence presented and petition on file to recommend approval to the County Commissioners of PC-R-15-16. The motion was seconded by Brad Overton and unanimously carried.

Guy Gentry then asked if they would waive their Rules of Procedure and allow this petition to be forwarded to the County Commissioners at their October 26, 2015 meeting instead of the November 9, 2015 meeting.

Brad Overton made a motion to waive the Rules of Procedure and forward this petition to the County Commissioners on October 26, 2015. The motion was seconded by Richard Reid and unanimously carried.

Mr. Gentry resumed the gavel.

**PC-R-15-17 – Petition of Storagekeep Self Storage, Jeff Willis, Pres. OWNERS: Willis Fence Company, Inc. Jeff Willis, Vice Pres. & A Willis Storage Center, Inc, Jeff Willis, Pres.** to rezone 7.90 acres located at the SE corner of the intersection formed by SR 66 & Lincoln Ave, Ohio Twp. from “C-4” General Commercial to “M-1” Light Industrial zoning district. *Complete legal on file. Advertised in the Standard October 1, 2015*

Jim Morley, Jr. was present.

Jeff Willis stated he will abstain from voting on this petition.

The President called for a staff report.

Mrs. Rector stated they have submitted all the return receipts from certified mail of notice of this meeting to the adjacent property owners. She stated there is no minimum lot area required for this zoning and the Comprehensive Plan projects the area to be commercial. She stated the existing use is a self-storage facility and the property to the North is zoned Agriculture with residence; East is some Agriculture with a residence and also M-1 being Loehr Bros. Commercial Subdivision; to the South is M-1 being another lot in Loehr Bros. Commercial; West is Agriculture, R-2B – Canterbury House

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Apartments and some C-4. She added there is no flood plain on the property and it has an existing driveway off SR 66. She said the stated use is to be indoor and outdoor storage. She added outdoor storage is allowed in this zoning without a Special Use but in the C-4 zoning they would need a special use approved for outside storage. She said the application is in order.

Jim Morley, Jr. said this is cleaning up the zoning on the property and the various Special Uses on the property. He said this is a pretty simple project.

Amanda Mosiman asked how long this has been here.

Mr. Morley said the mini storage buildings have been there for several years but there is some ground on the south end that don't have storage buildings on it yet but they anticipate them being there.

Mrs. Rector asked if there is also an entrance off Lincoln Avenue to which Mr. Morley said there is.

Ascertaining there were no other questions from the Board, the President called for remonstrators.

Steve Pawlowski, 6977 Lincoln Avenue said he lives to the east of this property and he has a drainage issue because the ground has been built up over there and when it comes down to his property it just drops off and he gets all the run off. He said he just wanted to bring that up.

Richard Reid asked if he has addressed the Drainage Board about this issue. He said there is a Storm Water Board and a Drainage Board that he should probably take this to.

Mr. Pawlowski said he just moved in a year ago.

Amanda Mosiman asked Attorney Doll if that would fall under the Common Enemy Doctrine.

Attorney Doll said yes it does as long as it isn't specifically channeled but the Drainage Board maybe could take a look at that issue.

Mrs. Rector told Mr. Pawlowski to call the office tomorrow and she will give him the numbers to Mr. Sherwood who is over Storm Water and Mr. Baxter who is the County Surveyor. She said this Board doesn't have anything to do with drainage unless they were doing a plat and even then the Drainage Board has to approve the drainage plans.

Mr. Morley stated he doesn't have extensive knowledge about his drainage situation, but from the zoning standpoint this is just bringing it into compliance for this kind of facility.

Mr. Gentry asked if they have any upcoming plans.

Mr. Morley said he thinks they have plans to expand the storage to the south end with a couple of buildings. He said they have filed those plans with the APC office already. He said they may start this in the next six months or so. He said they have actually filed those with the County Surveyor and Engineer's Office as well.

Amanda Mosiman asked if M-1 gives any other permission other than outdoor storage buildings.

Mrs. Rector stated there is no Use and Development Commitment with this rezoning so, yes.

Mr. Morley said there is M-1 all around this property but the intent is for mini storages. He said the M-1 allows them to have outdoor storage without going through a Special Use.

Ascertaining there were no other comments from the Board and being no remonstrators present, the President called for a motion.

Richard Reid made a motion based on the evidence presented and petition on file to recommend approval to the County Commissioners of PC-R-15-17. The motion was seconded by Jeff Valiant. Jeff Willis abstained and all other members voted for the motion, therefore the motion carried.

The President explained this will be forwarded to the County Commissioners at their November 9, 2015, meeting at 4:00 p.m. in this room.

**PC-R-15-14 – Petition of Affordable Builders of Indiana, LLC, Doug Lewis, Managing Mbr. OWNERS: Paul & Dorothy Ebinger and Wayne & Lisa Weber** to rezone 0.47 acres located on the W side of Taylor Dr. approximately 250' NW of the intersection formed by Taylor Dr. & Park Place Dr., Ohio Twp. being Lot 26 in Engelbrecht Place Sec. 2 Phase 1 from "C-4" General Commercial to "PUD/R-2" Planned Unit Development consisting of "R-2" Multi Family. *Advertised in the Standard October 1, 2015.*

Doug Lewis and Jim Biggerstaff, Utilities Consulting, were present.

The President called for a staff report.

Mrs. Rector said they still need green cards for Tyler & Darya Hinds; Daljit & Singh Kaur and Conesia Watson, but they have white pay receipts showing they were mailed within the 21 day notice. She added there is an existing duplex on the property and they have a primary plat on the agenda as well in order to bring the property into compliance. She said the R-2 zoning allows up to four units, however, there is a two-plex on the property they are dividing.

Guy Gentry said they will act on the zoning and then go to the plat. Ascertaining there were no questions from the Board and being no remonstrators present, he called for a motion.

Richard Reid made a motion based on the evidence presented and petition on file to recommend approval to the County Commissioners of PC-R-15-14. The motion was seconded by Jeff Valiant and unanimously carried.

#### **SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:**

**PP-15-17 – Engelbrecht Place Sec. 2 Phase V PUD** by Affordable Builders of Indiana LLC, Doug Lewis, Managing Mbr. OWNERS: Paul & Dorothy Ebinger and Wayne & Lisa Weber. 0.47 acres located on the W side of Taylor Dr. approximately 250' NW of the intersection formed by Taylor Dr.

& Park Place Dr., Ohio Twp. being Lot 26 in Engelbrecht Place Sec. 2 Phase 1. *Advertised in the Standard October 1, 2015*

Doug Lewis and Jim Biggerstaff, Utilities Consulting, were present.

The President called for a staff report.

Mrs. Rector said this will be the same staff report and they are bringing it into compliance with the Subdivision Control Ordinance.

Ascertaining there were no questions from the Board and being no remonstrators, the President called for a motion.

Jeff Valiant made a motion to approve PP-15-17 subject to the approval of the rezoning petition by the County Commissioners. The motion was seconded by Richard Reid and unanimously carried.

At 6:15 p.m. Richard Reid left the meeting.

### **REZONING PETITIONS:**

**PC-R-15-15 – Petition of Route 66 Development, LLC, Bruce Bennett, Pnr.** To rezone 22.45 acres located on the E side of Grimm Rd. approximately 0' E of the intersection formed by Stahl Rd. & Arbor Pointe Dr, Ohio Twp. from "C-4" General Commercial to "PUD/C-4" Planned Unit Development consisting of "C-4" General Commercial with a Use and Development Commitment. *Complete legal on file. Advertised in the Standard October 1, 2015*

Jim Morley, Jr., Morley & Associates and Bruce Bennett, were present.

The President called for a staff report.

Mrs. Rector stated they also have a primary plat on this agenda and they have submitted all the green cards from certified mail of notice to the adjacent property owners. She said the C-4 zoning has no minimum lot area but this is a PUD and it will be required to follow residential requirements. She stated the Comprehensive Plan shows the area to be commercial and the property does fall entirely in a TIF District. She said the property is currently vacant and the property to the north is zoned C-4 being Arbor Pointe Subdivision to the south is vacant C-4; to the east and west is vacant agriculture. She said the entire property lies in an AE 100 year flood plain; the BFE is 387.7. and the FPG is 389.7 and noted on plat. She said any permits will require a certified plot plan showing buildings are at or above the FPG or they will need to obtain a Letter of Map Amendment removing the property from the flood plain based on fill. She said each lot will have a commercial entrance off existing county roads as well as the newly planned Warrick Trail. She said they have submitted a Use and Development Commitment that restricts the property to Apartments only.

She asked if they want to hear the report for the plat.

The President stated they should hear it as well.

## **SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:**

**PP-15-19 – Warrick Trail Apartment Homes PUD** by Route 66 Development, LLC, Bruce Bennett, Pnr. 22.45 acres located on the E side of Grimm Rd. approximately 0' E of the intersection formed by Stahl Rd. & Arbor Pointe Dr, Ohio Twp. *Complete legal on file. Advertised in the Standard October 1, 2015.*

Jim Morley, Jr., Morley & Associates and Bruce Bennett were present.

The President called for a staff report.

Mrs. Rector said the report is basically the same as the rezoning and they are proposing six lots. She said the Commissioners ruled that no improvements to existing streets would be required but they have filed commercial driveway entrances, some will be built and some will not but they will bond all of them. She said their certificate of compliance has a \$20,000 amount to construct a temporary cul-de-sac that they will also need to bond. She said the street construction plans were approved subject to a traffic impact study being completed. She said they have a preliminary one but there are a few things they need to go over. She added they will also need to file for a vacation of a portion of Arbor Pointe Drive right of way. She added the drainage plans were approved by the Drainage Board and they requested to be allowed to have parking within the 75' right of entry for Sprengel Ditch, a legal drain which was allowed and they will be required to enter into a Hold Harmless Agreement. Mrs. Rector said Newburgh Sewer had capacity to serve the subdivision and they need an agreement from Newburgh Sewer to allow parking within Newburgh's easement before recording secondary. She added Chandler Water has capacity to serve this subdivision. She added they have submitted a landscaping plan showing an evergreen screen, areas for foundation planting and areas for turf and site landscape. She said the proposed development is for apartments and the plat is showing 14 buildings containing a total of 348 apartments; 216 (2 bedroom/2 baths) and 132 (1 bedroom/1bath) 696 parking spaces are required - provided 697 spaces. She said the parking requirement is 2 spaces per unit. She said conditions of approval would be the traffic study the Hold Harmless and the Newburgh Sewer agreement for parking lot. She said Mr. Morley can explain the construction process of Warrick Trail and this complex better than she can with how the construction is to begin and how they are going to use the roads. She said everything has been approved by the County and by Economic Development.

Jim Morley said this is going to be a multi-million dollar addition to the Warrick County tax rolls. He said the apartment industry right now is going great because people want to live in apartments versus a house. He said the reason they did the lot configuration is that currently Warrick Trail is under construction but it won't be dedicated until the end of next year and they want to pull building permits prior to that and there will be some road right of way and easement vacations that have to occur for a couple of the buildings and so they wanted to put those buildings on separate lots so they could get permit on the majority of the buildings and not hold up the project because of some right of way vacations that have to occur because of the Warrick Trail project. He said that is why it is six lots instead of three – to allow for the building permit process. He said as Mrs. Rector mentioned, the commercial driveways and the temporary cul de sac are being done in a manner that some will be built and some will not but all of them will be bonded. He said this is a great project and they look for their approval.

The President called for questions from the Board.

Amanda Mosiman said she isn't as familiar with the site and Arbor Pointe Drive.

Attorney Doll said it is at Grimm Road and S.R. 66.

Mrs. Mosiman said she knows where the vicinity is but is the road built, that is her question.

Mr. Morley said it is.

Mrs. Mosiman said it is and they are going to vacate this (pointing to the plat.)

Mr. Morley said Arbor Pointe Drive is there now and part of it will be vacated because Warrick Trail will be coming through. He said the vacation process will be done through Warrick County Redevelopment.

Mrs. Rector said their packets should contain the landscaping plans and drawings showing the type of buildings they are building.

Mr. Morley said if they flip through the package they will see the buildings are very nice and they believe it will be an asset to the community. He asked if there is something specific she is looking for.

Jeff Willis asked how this will affect Arbor Lake (residents).

Mr. Morley said the rezoning will not affect it at all but Warrick Trail will. He said currently the folks that live back there drive down the road that is going to be cut off and vacated and so with the Warrick Trail project part of Arbor Lake Drive will be vacated but Arbor Creek Drive will be built. He showed on the map how they drive in now and will drive in after. He said that change in traffic plan has nothing to do with this project; it was part of the original design of Warrick Trail which was in place well before this project came along. He said the zoning and the plat has nothing to do with how the current residents access their subdivision.

Mrs. Rector stated there is a buffer in this development because they will go from apartments to town homes to the single family dwellings.

Mr. Morley said as you work your way from the highway you go to commercial, lake, apartments, lake, town homes, lake and then single family residential. He said it is almost as picture perfect transitional as you can find.

Amanda Mosiman asked if they are voting on the rezoning now.

The President said they vote on the rezoning first but it all goes together.

Amanda Mosiman said she isn't seeing a landscaping plan in the documents she has.

Discussion ensued over the plans.

Mr. Morley explained the landscaping plan stating there is an existing tree buffer below the townhomes and then explained where other trees will go. He stated this developer is also the owner of the commercial part along the highway. He said obviously they wouldn't want to do anything adverse to have an effect on the remainder of the property.

Ascertaining there were no other comments from the Board, the President called for remonstrators.

Selena Clifton-Barr, 3749 Arbor Ponte Drive, said her property abuts the apartment property and her concern is where the trash receptacle is going to be located.

Mr. Morley showed her the location (off Stahl Road).

Mrs. Clifton-Barr asked if they could view the landscaping plans. (She was given a set of the plans.) She said her daughter's window faces the apartments and she just wanted to see the landscaping.

Ascertaining there were no other comments from the Board and being no other remonstrators present, the President called for a motion for PC-R-15-15.

Jeff Valiant made a motion based on the evidence presented and petition on file to recommend approval the County Commissioners of PC-R-15-15. The motion was seconded by Guy Gentry. Roll call vote was taken with Guy Gentry, Jeff Valiant, Brad Overton and Jeff Willis voting for the motion and Amanda Mosiman voting against the motion, therefore, the motion carried.

The President stated this will be forwarded to the County Commissioners on November 9, 2015, at 4:00 pm with a recommendation of approval.

The President then called for a motion on PP-15-19.

Jeff Valiant made a motion to approve PP-15-19 conditioned upon the approval of the rezoning and other conditions stated previously. The motion was seconded by Guy Gentry. Roll call vote was taken with Guy Gentry, Jeff Valiant, Brad Overton and Jeff Willis voting for the motion and Amanda Mosiman voting against the motion, therefore, the motion carried.

### **SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:**

**PP-15-18 – 4B Subdivision** by Hornet Hill Subdivision Inc., Bruce Aigner, Sec. 37.369 acres located at the terminus of Oak St. approximately 420' of the intersection of Ridgeview Ave. & Oak St., Greer Twp. *Complete legal on file. Advertised in the Standard October 1, 2015*

Gregg Kissell, Kissell Land Survey was present.

The President called for a staff report.

Mrs. Rector stated they have all the return receipts from certified mail of notice of this meeting to the adjacent property owners. She said this property is zoned R-1A which requires 75' at building line and a minimum lot area of 9,000 square feet. She said this property is not in the flood plain and they



are proposing two lots. She said Lot 1 is 17 acres and Lot 2 is 20.369 acres. She added this property originally was going to be part of Hornet Hill Subdivision which is why it is zoned R-1A. She said when they came in for site review they wanted to do a parcelization; however, because of the zoning they had to file a major subdivision. She said the Commissioners ruled no street improvements were required and the Drainage Board ruled no additional drainage plans were required. She added Elberfeld was water and sewer in place and available for connection. She said this is a two lot residential subdivision; Lot 1 has access off Kost Road and Blesch Circle and Lot 2 has access off Oak Street. She said the plat is in order.

Ascertaining there were no questions from the Board and being no remonstrators present, the President called for a motion.

Brad Overton made a motion to approve PP-15-18. The motion was seconded by Jeff Valiant and unanimously carried.

### **OTHER BUSINESS:**

**Formal Complaint:** Vladimir Tonchev, 6088 Grand River Rd. ~Alleged junk/salvage yard in “R-2A” Two Family Dwelling zoned district.~ Cease and desist letter sent July 6, 2015. Board ruled to have Attorney Doll write a letter to have property cleaned up by October 9, 2015 or appear at this meeting.

Mrs. Rector said Guy Gentry went to the property and it is cleaned up.

Guy Gentry said one car was there but he couldn’t tell if it was actually the neighbor’s car.

Brad Overton made a motion to find the property no longer in violation. The motion was seconded by Jeff Willis and unanimously carried.

### **Microbreweries/wineries**

#### **Chickens/Urban zoning**

Mrs. Rector said she told Morrie and Guy they need to do the ordinance but she would like for her, Morrie, Guy and Amanda to meet some day and go over the proposed changes before she writes the ordinances. She said she has questions and she can’t just write an ordinance and say “according to Indiana Code...” She said she has to be able to explain the ordinance and when someone comes in and ask what it means she can’t just say go read the Indiana Codes, she has to understand it herself. She said she would like more information on all of it. She said Amanda and Morrie have also been talking about the chickens and so they could take care of it all then.

It was determined that the meeting will be October 26<sup>th</sup> at 1:00 p.m. in the APC Conference Room.

### **ATTORNEY BUSINESS:**

Attorney Doll stated on October 29, 2015 at 2:00 pm in Superior Court he and Sheila Lacer will be appearing in for the lawsuit on Thomas Key, Sr. for maintaining a junk yard and common nuisance.

**EXECUTIVE DIRECTOR BUSINESS:**

None.

Being no further business the meeting adjourned at 6:45 p.m.

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Guy Gentry, President

ATTEST:

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Sherri Rector, Executive Director